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ABSTRACT

The issue of whether cheating and plagiarism should be categorized as an academic evaluation or disciplinary misconduct is discussed. It is claimed that if these offenses are categorized as disciplinary misconduct, students are entitled to some due process. However, if cheating and plagiarism are classified as academic evaluations, students are entitled to little, if any, due process. The courts may enter the picture if it can be shown that the actions of the school, including actions of faculty as agents of the institution, are clearly unreasonable, arbitrary, or capricious. Allowing faculty the right to judge what is cheating or plagiarism is a problem that is further complicated when faculty are also given the right (responsibility) to decide what sanction or punishment is appropriate. It is suggested that if cheating and plagiarism are examples of code of conduct breaches, all such cases should go before a hearing board. These offenses would then be matters beyond an individual faculty member's right to decide. A questionnaire about what qualifies as cheating and a "Cheating Quiz" are appended. (SW)

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CHEATING AND PLAGIARISM:
MATTERS BEYOND A FACULTY MEMBER'S RIGHT TO DECIDE!

Thematic Session

1984 Annual Meeting / New Orleans

National Association of Teacher Educators

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HYPOTHESIS

Cheating, plagiarism, and other such student acts of academic dishonesty are more legitimately classified as a disciplinary code of conduct breach (disciplinary misconduct) rather than as an academic evaluation, and as such, are beyond the rights of a single faculty member to resolve.

REASON FOR SELECTING TOPIC

Recently I was a witness in two situations where students were accused of cheating. They admitted cheating, the punishment was handed out by the instructor (being dropped from the course with an automatic "F" in the course), the students did not seek further appeal, and the cases seemed closed. Soon afterward, I began to have second thoughts on the matter as I questioned the instructor's right, no matter what his academic competence, to sit as judge and jury in situations that seemed to parallel other disciplinary infractions of codes of conduct where no single person, faculty member or administrator, had such extreme power.

DISTINCTION BETWEEN ACADEMIC EVALUATIONS AND DISCIPLINARY MISCONDUCT

There is a recognized difference between academic evaluations and disciplinary misconduct. Such a distinction was made when the court said, "state and lower federal courts have recognized that there are distinct differences between decisions to suspend or dismiss a student for disciplinary purposes and similar actions taken for academic reasons." *Board of Curators of the University of Missouri v. Horowitz*, 435 U.S. 78 at 87, (1978). Institutions should not permit faculty to unilaterally decide how cheating and plagiarism are to be categorized. "Misconduct and failure to attain a standard of scholarship cannot be equated." *Mahavongsanan v. Hall*, 529 F.2d at 449-450, (1976). One should not expect that faculty competent to evaluate in one area, are automatically competent to judge the other. Courts have specifically noted that there has long been a distinction between cases concerning disciplinary dismissals on the one hand, and academic dismissals on

the other. Not only have the courts set the precedent for two clear categories to exist, they have further indicated a desire not to, "blur the distinction". *Greenhill v. Bailey*, 519 F.2d at 8, (1975). Under which category do cheating and plagiarism fall?

MATTERS OF "FACT" -- THE DECIDING FACTOR

What determines whether cheating and plagiarism, as examples of academic dishonesty, should be categorized as an academic evaluation or disciplinary misconduct? "Misconduct (disciplinary) is a very different matter from failure to attain a standard of excellence in studies. A determination as to the fact involves investigation of quite a different kind." 435 U.S. 78 at 87. Cheating and plagiarism, like other disciplinary misconducts (e.g. drinking, drugs, vandalism), are questions or matters of "fact". One either was drinking or one was not drinking. One either plagiarized or one did not plagiarize. One either cheated or one did not cheat. According to *Horowitz* (cited by Pavela, 1978, p.57), the facts of the case, often of a type susceptible to determination by third parties, should reveal the truth. 435 U.S. 78 at 104-107. A faculty member's judgment of a student's academic or scholastic performance, "...is by its nature more subjective and evaluative than the typical questions presented in the average disciplinary decision." 435 U.S. 78 at 89-90. One again sees "facts" as the division in the statement, "Academic evaluations of a student, in contrast to disciplinary determinations, bear little resemblance to the judicial and administrative fact-finding proceedings...." *Napolitano v. Princeton Univ. Trustees*, 435 A.2d at 275, (1982).

Using matters of "fact" to separate academic performance

evaluations from disciplinary misconduct can also be found in the guidelines for procedural due process established in *Dixon v. Alabama State Board of Education*. They state, "By its very nature, a charge of misconduct, as opposed to a failure to meet the scholastic standards of the college, depends upon a collection of the facts concerning the charged misconduct, easily colored by the point of view of the witness." (Young and Gehring, 1973, p.17) If cheating and plagiarism continue to be classified as academic evaluations and not disciplinary misconduct, then the "witness" most often would be the faculty member. Could faculty really set themselves aside as impartial witnesses?

Although some may contend "...that the resolution of charges of plagiarism or "cheating" requires the exercise of a professional "academic" judgment.... Educators, however, should not readily accept that argument, since contested cases of academic dishonesty invariably involve factual disputes." (Pavela, 1978, p.68) Such "factual disputes" rarely exist in matters of purely academic judgements. Matters of "fact" constitute a basic difference between academic evaluations and disciplinary misconduct.

CHEATING AND PLAGIARISM: CLASSIFIED UNDER CODE OF CONDUCT

It is not uncommon to have cheating and plagiarism lumped together with other examples of disciplinary misconduct. At Purdue, cheating and plagiarism are listed under "Misconduct Subject to Disciplinary Penalties," along with Alteration of Records; Use, Possession, or Distribution of Drugs; and Theft (Regulations Governing Student Conduct, Disciplinary Proceedings, and Appeals, 1978, p.2-3). At the University of Minnesota, Scholastic Dishonesty (including cheating and plagiarizing) are grouped along with Theft and Property Damage,

Disruptive Demonstrations, and Weapons on Campus (Conduct Code: A Statement of Standards of Student Conduct Enforceable by University Agencies, 1978, p.3-4). The Pennsylvania State University places academic dishonesty (including but not limited to, cheating and plagiarism) under the title, Code of Conduct. This placement is shared with 14 other examples including Unauthorized Entry, Forgery of Records, and Disorderly Conduct. (Penn State Handbook 1982-83, p. 39-40.) Finally, "Academic Dishonesty" (including cheating and plagiarism) is once again listed along with 13 other University of Delaware Code of Conduct violations, including Conspiracy, Alcohol and Drug Policy, and Theft (Student Guide to Policies, 1983-84, p.3-4).

DUE PROCESS FOR THE STUDENT

The categorization of cheating and plagiarism as academic evaluations or disciplinary misconduct has grave implications concerning the requirement of due process procedures for students. Basically, if cheating and plagiarism are categorized as disciplinary misconduct, then students are entitled to some due process -- the same due a student for any other disciplinary misconduct (e.g. drinking, vandalism). If cheating and plagiarism are categorized as academic evaluations, then students are entitled to little, if any, due process! The court is on record as stating, "Dismissals for academic (as opposed to disciplinary) cause do not necessitate a hearing before the school's decision making body." *Goss v. Lopez*, 419 U.S. 565 at 84-91, (1975). Thh fact that this position is long standing is shown in a decision of the Supreme Judicial Court of Massachusetts. *Barnard v. Inhabitants of Shelburne*, 216 Mass. 19, 102N.E. at 1095, (1913). Over and over again the courts have said that only disciplinary

misconduct is deserving of some due process. Although the degree of due process guaranteed here is minimal compared to what the accused is entitled to under criminal law, at least it is present.

For disciplinary misconduct the courts say, "Procedural due process must be afforded in disciplinary proceedings brought against a college student, by way of adequate notice, definite charge, and hearing with opportunity to present one's side of the case and with all necessary protective measures." *Esteban v. Central Missouri State College*, 415 F.2d at 1079, (1969). Students have an interest in their education, for it is, "...of extremely great value and is deserving of constitutional protection." *Esteban v. Central Missouri State College*, 277 F.Supp. at 651, (1967).

While a student's rights for disciplinary misconduct *appear* to be well guaranteed, courts have pointed out that, "A school is an academic institution, not a courtroom or administrative hearing room." 435 U.S. 78 at 88. With this statement in mind the courts go on to say, "...further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as a part of the teaching process." 419 U.S. at 583. The courts set still more limits on the due process right of students by stating that one should not assume, "that a full-dress judicial hearing, with right to cross-examine witnesses, is required," *Dixon v. Alabama State Board of Education*, 294 F.2d 150 at 159, (1961). An institution's denial to accused students to "face their accusers" and to "cross-examine them", *People v. Board of Trustees of University of Illinois*, 134 N.E.2d 635 at 637 (1956), and the denial of accused students to have "non-institition legal counsel present during a hearing," *Garshman v.*

Pennsylvania State University, 396 F.Supp. 912 at 914 (1975), are long standing, court supported positions. The point here is that at least some, no matter how limited, due process rights are available to students when their behavior falls within the "disciplinary misconduct" category.

For academic matters, including cheating and plagiarism if they would be categorized under academic evaluations, the courts guarantee still fewer rights of due process -- often none at all. "The courts recognize a significant difference between the failure of a student to meet academic standards and the violation by a student of valid rules of conduct. This difference calls for far less stringent procedural requirements in the case of academic dismissal." 435 U.S. 78 at 86. It appears that no due process rights under the Fourteenth Amendment would be required. This seems odd given that *Goss vs. Lopez* guarantee due process to students for 10 day or less suspensions and hint at the need for even greater student protection for proposed longer or more serious disciplinary sanctions. 419 U.S. at 576. The possibility that more long term suspensions from an educational program may be a "matter that requires 'more formal' procedures," has recently been explored by the courts. *Bleicker v. Board of Trustees of Ohio State University, College of Veterinary Medicine*, 485 F.Supp. 1381 at 1387, (1980). Surely, being dropped from a course for cheating, with the accompanying permanent "F" on a transcript, is an example of a more serious sanction. What appears to be a double standard is further confused by the court's statement that, "The educational rights of children and teenagers in the elementary and secondary schools have not been analogized to the rights of adults or to those accorded college students." 419 U.S. at 590. This suggests college students,

like other adults, are to have GREATER not FEWER rights than children. But this is not the case. The university relies on the well-settled principle that a court may not substitute its judgment for that of educators on academic matters. Dismissals for academic (as opposed to disciplinary) cause do not necessitate a hearing before the school's decisionmaking body." 435 U.S. 78 at 79.

With these opinions from the courts as precedents, students would not be entitled, except by the good graces of a particular college or university, to challenge accusations of cheating or plagiarism beyond the faculty member who made the accusations. Academic matters, and the decisions that concern them, clearly rest in the hands of faculty. If cheating and plagiarism fall under "academic matters," then court decisions stating, "There are no constitutional or statutory provisions granting any legal rights or privileges to students in the educational institutions of this state with respect to grades for academic performance," will prevail. *Horne v. Cox*, 551 S.W.2d 690 (1977). Thus, a student who was awarded an "F" in a course, primarily for cheating (even on a minor component of the course), would have no guaranteed official avenue of appeal. Although most would argue that faculty are in a unique position by virtue of their expertise to judge a student's academic performance, this same confidence should not transfer to matters of "fact."

POSSIBILITY OF ARBITRARY AND CAPRICIOUS BEHAVIOR

Although it appears to be well accepted that courts should not intervene to reverse disciplinary actions of an educational institution carrying out its lawful mission, the position is not

completely one of *laissez faire*. The courts may enter the picture if it can be shown that the actions of the educational institution (including actions of faculty as agents of the institution) are "...clearly unreasonable, arbitrary or capricious (Young and Gehring, 1973, p.5).

Educational institutions that permit faculty to sit in judgment of matters of "fact," such as cheating and plagiarism, may be placing themselves in a position for court intervention. It may be claimed that faculty, operating alone throughout an institution from their own individual frame of reference, are susceptible to actions that are clearly unreasonable, arbitrary or capricious.

Take the definition of cheating, for example. Although some institutions, and some individual faculty, attempt to define just what cheating is, the standing advice to university conduct standards' offices is <u>not</u> to produce documents that attempt to delineate each and every example of cheating possible. (Suit, 1983) Instead they are counseled to create, distribute and enforce more broad, encompassing statements. As institution policy this may be fine, but for those attempting to implement the policy, it may not be so fine.

Are faculty able to determine what is and what is not cheating? Is there general agreement among faculty as to what is cheating? Are students able to determine what is and what is not cheating? Is there general agreement among students as to what is cheating? Is there general agreement among faculty <u>and</u> students as to what is cheating? Is cheating seen by faculty and students to range in degrees of "seriousness" from one type of offense to another?

These questions were addressed via a Fall, 1983, anonymous survey on cheating completed by 187 students and 43 faculty from The Behrend

College. Participants were given ten "situations" to which they had to respond either "Yes" or "No" as to whether each was an example of cheating. See Appendix I for a copy of the survey. A typical situation was, "A student prepares a 'crib sheet' and takes it into the test site, but due to the test being proctored so closely, does not actually get a chance to use it. Has he cheated?" The results of the survey are shown below in Chart I, "STUDENT VS. FACULTY: WHAT IS CHEATING?" Faculty and students basically agreed upon what did and did not constitute cheating -- at least for the ten situations posed to them. Of note, is the fact that in situations three through ten, students more often than faculty, answered "Yes."

The importance of relying upon matters of "fact" in an accusation of cheating is supported as one examines responses to situations #4 and #6. The "facts," as would be available to an observer (an instructor) are the same if not identical; a student is seen "looking across" or "glancing over" at a fellow student's answer sheet. Yet, 25% more students and 30% more faculty answered "Yes" to situation #4 than to situation #6.

Place Graph I about here

Having faculty and students respond to cheating "situations," although interesting, overlooks the fact that ten "situations" represent only a fraction of the possible number of "situations" that could actually exist. A more effective way to measure faculty and student response to cheating is to identify several general cheating

categories into which all "situations" could fit. It appears that cheating can be pigeon-holed into at least three areas: INTENT, INTENT PLUS COMMISSION, and COMMISSION WITHOUT INTENT. INTENT refers to making plans of some sort to cheat, perhaps preparing a "crib sheet that will be taken into the exam site. Premeditation exists. If the "crib sheet" is taken to the exam site and at the last moment disposed of before entering the exam room (for whatever reason), is this cheating? If the "crib sheet" is taken into the exam room but never used (perhaps due to close faculty monitoring of the test site, a twinge of conscience, etc.), is this cheating? If the "crib sheet" is not used, but for some reason comes to the attention of the instructor (someone stumbles over the student's books and out pops the cheat sheet), is this cheating? From Deans, to faculty members, to student personnel workers, to students -- all at one institution, the answer to this question varies. Some say emphatically, "Yes"; others say just as emphatically, "No." Should individual faculty be given the right, or have thrust upon them the responsibility, to make the decision? Unless one can be sure individual faculty across disciplines, colleges, and departments will approximate the same decisions given relatively the same student misbehaviors, one can expect future court intrusion citing, at a minimum, arbitrary decisions on the part of the institution.

INTENT PLUS COMMISSION refers to preparing to cheat and then actually executing that intent. Preparing the "crib sheet" referred to above and actually using it would fall into this category. Preparing a paper where one plagiarized and then actually submitting it would also qualify as an example. There is much more universal agreement by those in the university community that this constitutes cheating.

COMMISSION WITHOUT INTENT, refers to such behaviors as being in a test site and, without any premeditation (for example, having selected one's seat next to a fellow student, having worked out some code to pass information back and forth, etc.) glancing over at a neighbor's answer sheet. This is almost a situation of impulse; it is spontaneous. One did not intend to cheat, but opportunity knocked so loudly that one could not resist. Representatives from the university community, although not condoning this type of cheating, are quick to note the care that one should take prior to making any cheating accusation. According to Suit (1983), one should have noted repeated glances across at a fellow student's paper (certainly more than one) before making the accusation. Just how many is "repeated"? Again, should the instructor make the decision? In situations where hundreds of students are crowded into a test-site, elbow to elbow, one wonders if the institution is not guilty of abetting cheating. To what degree should the institution be responsible for guaranteeing proper test-site conditions before students might be unreasonably accused?

How do faculty and students evaluate the seriousness of each of these three cheating categories? In a continuation of the cheating survey (questions 11-13, Appendix I) referred to above, Behrend College faculty and students were asked to rate each of the three categories of cheating on a scale of one through five; one being "Not an example of cheating," and five being "Serious example of cheating." The results are shown in Graph II, "SERIOUSNESS OF CHEATING: FAC/STUD?." Faculty and students see INTENT as just barely an example of cheating while they see INTENT PLUS COMMISSION as a serious example of cheating. The only real disparity is for COMMISSION WITHOUT INTENT. On the 1 - 5 scale, students rate this last category as 3.85, whereas

faculty only rate it 1.75. As was the case with the ten cheating "situations," we see students being more harsh than faculty in their evaluation of cheating. Although the results from the cheating survey show similarities, as well as differences, between faculty and student perceptions of cheating, one should keep in mind that the results may not hold for any specific faculty member or student.

Place Graph II about here

PUNISHMENT: HOW MUCH? WHO DECIDES?

It should be clear that the definition of what constitutes cheating is not a universally held constant. Should an institution permit its many individual agents (faculty) to decide in their classes what does and what does not constitute cheating? If so, it would be far-fetched to believe there exists any institution-wide equity in these matters of "fact." Yet, a recent draft of a Penn State Committee on Academic Integrity states, "...sanctions should be fair, equitable and direct" (Promoting Academic Integrity at Penn State, p.4). Present conditions are ripe for student accusations of capricious and arbitrary institution behavior.

Allowing faculty the right to sit in judgment to decide what is and what is not cheating or plagiarism is a problem that is further complicated when they then are given the right (responsibility) to decide what sanction or punishment is appropriate. What latitude is available to faculty? Policy 49-20, Academic Dishonesty, in the 1982-83 Penn State Policies and Rules for Students, states "If a student does not contest an accusation of academic dishonesty, the

instructor may drop the student from the course. If the student is dropped from the course, the grade will be recorded as F." This gives the instructor the right to supply anything from no sanction at all to one that results in an "F" in the course. How have faculty used this policy? Cases are documented where faculty have dropped students from their courses (grade thus recorded as "F" on the permanent transcript) for anything from plagiarizing on a major term paper to copying a fellow student's minor homework assignment; from cheating on a midterm exam or final to cheating on a 10-point "pop" quiz. Faculty imposing harsh (perhaps unreasonable sanctions) for cheating on a 10-point quiz say that "cheating is cheating." One has either cheated or one has not in the same sense that one is either "pregnant" or one is not -- no middle ground is recognized. Those imposing harsh sanctions (dropped from the course) for major transgressions, and imposing minor sanctions (an "F" on that particular assignment) for more minor transgressions argue that the punishment must fit the crime. The courts do take a stand here by stating, "To us each penalty obviously must be tailored to the offense committed...." 435 A.2d at 278.

Although a separate issue might be who is right, the point here is the fact that such diversity exists among the faculty of one institution as to what constitutes cheating and plagiarizing, and what sanctions are imposed once the first decision has been made. It would appear that permitting individual faculty to act as judge and jury on these matters of "fact," increases the likelihood that "...clearly unreasonable, arbitrary or capricious actions" will occur.

ALL CHEATING ACCUSATIONS SHOULD GO BEFORE A HEARING BOARD

For the benefit of students, faculty, and the institution, all accusations of academic dishonesty should go before a disciplinary hearing board. On the one hand, students would benefit from having at least minimum due process rights guaranteed. Students would be less likely to be intimidated by a single faculty member whose definition of cheating may be different (e.g. more strict) than that arrived at collectively by a hearing board. On the other hand, guilty students would be much more exposed by having to face not only their accuser but also other designated (student/faculty/administration) representatives of the university community. An accusation of cheating could no longer be swept under the table by handling it between just the student and the faculty member. Although an "F" on a transcript often needs some explaining to relevant others (parents, peers, employers) and as such may seem punishment enough for cheating, such an explanation most certainly would avoid cheating as the reason.

Faculty would benefit as long as institution thinking supports the view that, "Faculty rights to assign grades in assessment of academic performance should not be threatened nor confused with the rights of students to a minimum due process when cases of alleged academic dishonesty arise." (Promoting Academic Integrity at Penn State, p.4) Faculty would no longer stand alone as quasi conduct standard officers, a position they may be ill prepared to defend should courts intervene. The right and responsibility to "stand alone" is necessary to preserve academic freedom for strictly academic matters. It should be neither a faculty right nor a responsibility for disciplinary matters.

For those faculty and administrators who bulk at giving up some of their disciplinary power to hearing boards, Pavela (1978, p.69) answers, "...efforts by educators to check and control their own exercise of discretionary power may encourage young people to show comparable restraint when they assume positions of responsibility."

In a disciplinary hearing board is it not just the faculty member's word against the student's word (especially in cases where no tangible evidence exists such as cheating on an exam)? Won't it just be a waste of time for faculty to make such accusations? Aren't students innocent until proven guilty "beyond a shadow of a doubt"? No! Hearing boards usually assign more weight to the testimony of the party who has the least stake in the disposition of the decision -- the faculty member in this case. Further, according to Suit (1983), unlike criminal cases where one must prove guilt beyond a "reasonable doubt," institutions (or their agents - faculty) need only show that "clear and convincing evidence" exists. This difference in degree of required evidence is further supported where the courts have stated that, under the due process clause of expulsion of students for cheating, it was not the "substantial evidence" test that applied, but instead, it involved a determination of whether the expulsions could be sustained because they were supported by "some evidence." *McDonald v. Board of Trustees of University of Illinois*, 375 F.Supp. at 96, (1974).

What would institutions have to gain (or lose) by hearing all accusations of academic dishonesty? They would get a handle on just how widespread cheating is and what conditions under their control foster or inhibit such student behavior. At present, with cheating and plagiarism cases often being "disposed of" at the faculty member

level, little hard data exists to offer guidance for future institution action. As a case in point, in spite of the fact that The Pennsylvania State University does supply an avenue of appeal for students contesting accusations of cheating, at The Behrend College (population 1800), not one single appeal has come before the Dean of Student Affairs in his four year tenure (Harshberger, 1983). Further, given the approximately 50,000 full-time student enrollment of Penn State, an insignificant number of student initiated cases contesting accusations of cheating (less than 10 per year) have reached the University's Conduct Standards Office (Suit, 1983). These relatively few student initiated appeals suggest one or more things: few students cheat, therefore there is no need to appeal; faculty accusing students of academic dishonesty have well-supported cases and thus it is fruitless to appeal; students personally see more circumstances than faculty as examples of cheating (recall results of cheating survey) and simply feel they are getting what they deserve so why appeal; students would rather take the "F" from the instructor than face possible additional embarrassment; repeat offenders can avoid exposure by avoiding centralized hearing boards; or students, having never gone before a hearing board, do not want to chance an even more severe penalty being imposed. Assuming there is academic dishonesty, then for whatever reason, students do not regularly volunteer to go before a hearing board even when the avenue exists.

If cheating and plagiarism are examples of code of conduct breaches, and I believe they are, then we should <u>require</u> that all such cases go before a duly constituted hearing board. In what other serious code of conduct breach do we permit the accused to avoid such exposure and, at the same time, the opportunity to give his side? In

what other code of conduct breach do we permit the accuser, in our case the faculty member, to sit as judge and jury? What right do we have to single out one type of conduct breach for special, less visible, attention?

Institutions, including faculty and students, would benefit in still another way. Although, as in all hearing board cases, confidentiality must be guaranteed, an institution would now be in a position to regularly advertise the general disposition of cheating and plagiarism cases. The entire university community would be aware that something in fact is done to those found guilty of cheating or plagiarizing. This should act as a deterrent and thus benefit all.

Although one might expect an increased workload for disciplinary hearing boards at first, this should taper off as those in the student community see that the institution will no longer look the other way while cheating occurs. Yet, even if the workload were to remain heavy, the hearing board should realize that it is providing a vital service. For, as the court has stated, "It would be a strange disciplinary system in an educational institution if no effort was sought by the disciplinarian with the student in an effort to inform him of his dereliction and to let him tell his side of the story to make sure that an injustice is not done." 435 U.S. at 89. All involved agree that, at a minimum, cheating and plagiarism are affronts to the entire university community. Accordingly, accused students should be made to answer to this same community.

SUMMARY

An NASPA Journal article provided my initial incentive to do this paper and I offer a portion of its summary as mine. "The accusation of

cheating and plagiarism against the student can be a devastating incident. More often than not, faculty simply fail the student in the course and the student, embarrassed and overwhelmed, normally accepts the outcome fearing even greater penalties if he or she objects." (Rutherford & Olswang, 1981, p.15-16) A student's due process rights, as minimal as they are in disciplinary cases, must be made available to students accused of cheating and plagiarizing. This could most immediately be done by correctly classifying such acts as breaches of the code of conduct, not a part of academic evaluation. As such, disciplinary boards would decide the case's merits. Cheating and plagiarism would then be matters beyond an individual faculty member's right to decide. This takes away no "right" that faculty members have earned, it only removes a "responsibility" that has never belonged there in the first place. Justice will be better served for all members of the university community!

REFERENCES

Barnard v. Inhabitants of Shelburne, 216 Mass. 19, 102 N.E. 1095, 1913.

Bleicker v. Board of Trustees of Ohio State University, College of Veterinary Medicine, 485 F.Supp. 1381, 1980.

Board of Curators of the University of Missouri v. Horowitz, 435 U.S. 78, 1978.

Conduct Code: A Statement of Standards of Student Conduct Enforceable by University Agencies, University of Minnesota, 1978, 2-3.

Dixon v. Alabama State Board of Education, 294 F.2d 150, 1961.

Esteban v. Central Missouri State College, F.Supp. 651, 1967.

Esteban v. Central Missouri State College, 415 F.2d 1079, 1969.

Garshman v. Pennsylvania State University, 396 F.Supp. 912, 1975.

Goss v. Lopez, 419 U.S. 565, 1975.

Greenhill v. Bailey, 519 F2d 5, 1975.

Horne v. Cox, 551 S.W.2d 690, 1977.

McDonald v. Board of Trustees of University of Illinois, 375 F.Supp. 95, 1974.

Mahavongsanan v. Hall, 529 F.2d 448, 1976.

Napolitano v. Princeton Univ. Trustees, 435 A.2d 263, 1982.

Pavela, G. Judicial Review of Acadmeic Decisionmaking After *Horowitz*. School Law Journal, 1978, 55(1), 55-75.

Penn State Handbook, 1982-83, The Pennsylvania State University, 39-40.

People v. Board of Trustees of University of Illinois, 134 N.E.2d 635, 1956.

Policies and Rules for Students, The Pennsylvania State University. 1982-83, Policy 49-20.

Promoting Academic Integrity at Penn State, Draft of report from ACUI Committee on Academic Integrity, The Pennsylvania State University, November 1982.

Regulations Governing Student Conduct, Disciplinary Proceedings, and Appeals, Purdue University, July, 1978. 2-3.

Rutherford, D.G. and Olswang, S.G. Academic Misconduct: The Due Process Rights of Students. NASPA Journal, 1981, 19(2), 12-16.

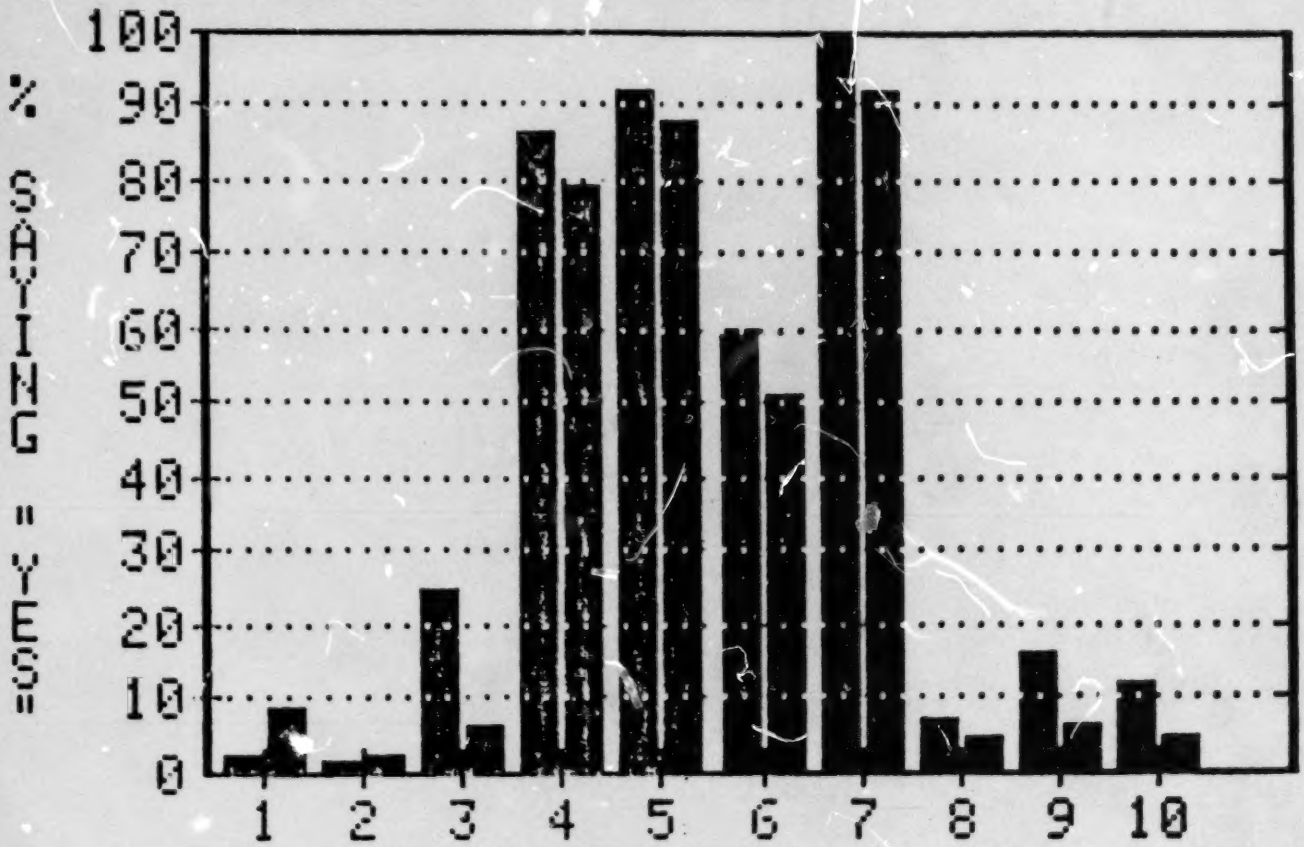
Student Guide to Policies, University of Deleware, 1983-84, 3-4.

Suit, D. Director of Office of Conduct Standards, The Pennsylvania State University. Interviews: March 14, 1983 and April 7, 1983.

Young, D.P.and Gehring, D.D. The College Student and the Courts, College Administration Publications, Inc., 1973.

- GRAPH 1 -

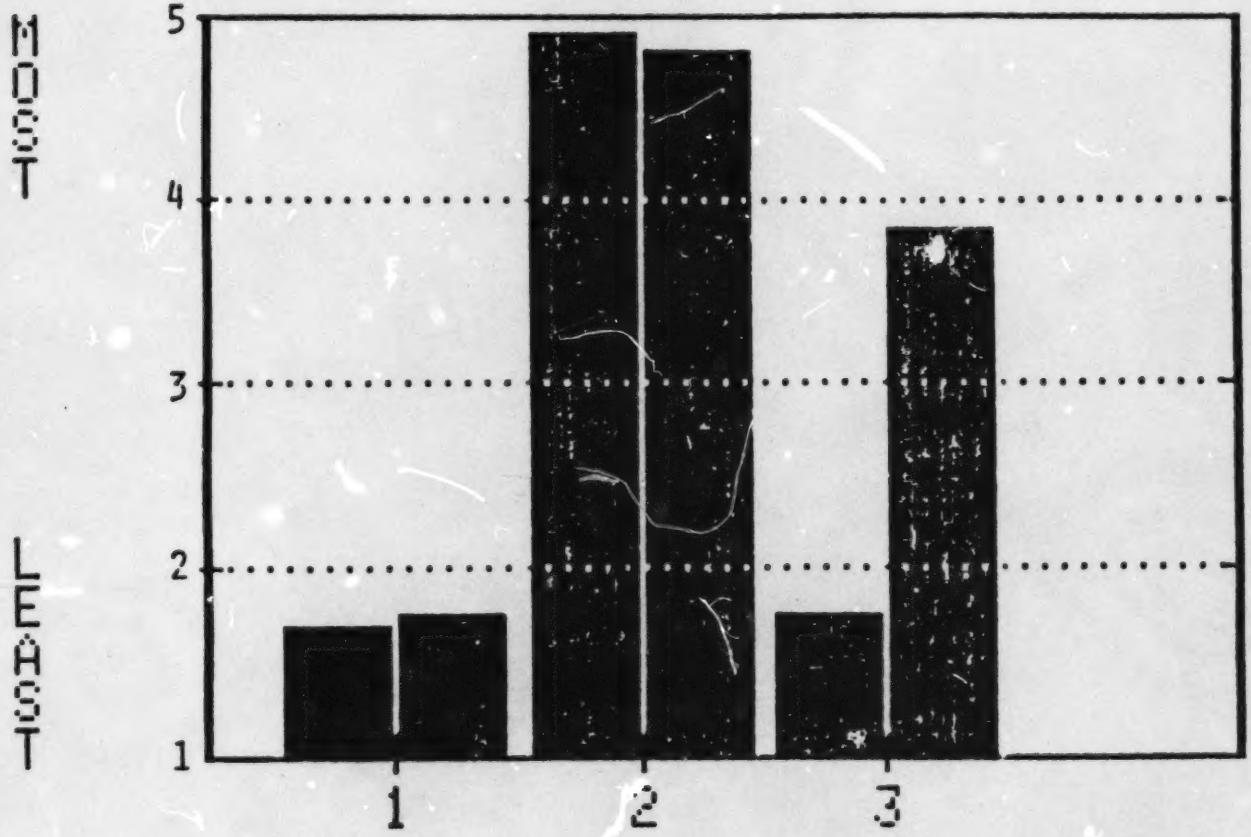
STUDENT VS. FACULTY: WHAT IS CHEATING?



CHEATING "SITUATIONS" 1-10
(LEFT=STUDENT / RIGHT=FACULTY)
(187 STUDENTS / 43 FACULTY)

- GRAPH 2 -

SERIOUSNESS OF CHEATING: FAC/STUD?



CATEGORIES OF CHEATING: 1-3
(1=I, 2=I+C, 3=C-I)
(LEFT=FACULTY / RIGHT=STUDENTS)

WHAT QUALIFIES AS CHEATING?

The Penn State document, Policies and Rules for Students, states under 49-20, Academic Dishonesty, that if a student is accused of academic dishonesty and the student does not contest the accusation, "...the instructor may drop the student from the course. If the student is dropped from the course, the grade will be recorded as F." Given this documented power of an instructor, several questions come to mind.

1) Should the instructor, the aggrieved person, be in a position to make such accusations and at the same also be in a position to recommend punishment -- up to and including action resulting in a recorded grade of F?

2) What actually consititutes academic dishonesty (cheating, plagiarism, etc.)? Might it be that professors and students have different definitions of it? Might it be that even among professors (and among students) different definitions exist? If no common definition exists then how can a clear policy be written and followed?

3) Are fewer students than would be expected taking advantage of appeal rights because they simply accept their accusing professor's definition of cheating? Do they avoid appeal procedures in order to avoid public embarassment? Do both faculty and students simply seek the most expedient solutions? If the majority of cases are handled between the instructor and student, how does the insitiution know how widespread is academic dishonesty?

4) Should individual faculty, all agents of the same institution, use a common definition for academic dishonesty and apply the same severity of punishment for the same degrees of dishonesty. If an accused student's fate depends upon who he happens to have as an instructor, are not such faculty actions perilously close to being arbitrary and/or capricious?

5) Since the determination of academic dishonesty lends itself to "matters of fact," unlike subjective decisons concerning the evaluation of a student's academic work, are faculty, due to their academic expertise, really any better suited than an impartial hearing board to decide guilt or innocence?

Of these questions the, one I would like to first address is #2, what actually constitutes cheating? To this end, would you please complete the very short CHEATING QUIZ that is attached. Please return it to Dr. Tauber, 106-FOB. I will make the results available to those who are interested.

- APPENDIX I -

CHEATING QUIZ

Please read each of the following situations and answer 'YES" or "NO" as to whether it is, in your mind, an example of cheating. Answer them in sequence, 1 through 10.

_____1. A student sits in his dorm room and prepares a 'crib sheet' with the intent of taking the sheet into the test site and using it if he gets the chance. Has he cheated?

_____2. A student prepares the 'crib sheet' as described above, but before entering the test site decides to toss the sheet in the garbage. Has he cheated?

_____3. A student makes elaborate plans to sit next to a particular student in class in order to copy the student's answers. Has he cheated?

_____4. A student makes elaborate plans to sit next to a particular student in class in order to copy the student's answers. As the test proceeds the student making the elaborate plans is seen only one (1) time looking across at the other student's answer sheet. Has he cheated?

_____5. A student makes the same elaborate plans as shown in #4, and is seen repeatedly looking across at the other student's answer sheet? Has he cheated?

_____6. During an exam, in a rather crowded test site, a student glances over at a fellow student's answer sheet? Has he cheated?

_____7. A student prepares a 'crib sheet' (as described in #1 above) and takes it into the test site and uses it. Has he cheated?

_____8. A student prepares a 'crib sheet' (as described in #1 above), takes it into the test site, but due to a twinge of conscience does not actually use it. Has he cheated?

_____9. A student prepares a 'crib sheet' (as described in #1 above), takes it into the test site, but due to the test being proctored so closely, does not actually get a chance to use it. Has he cheated?

_____10. A student prepares a 'crib sheet' (as described in #1 above above), takes it into the test site but does not use it. A fellow student walks across an aisle where the student is sitting, trips over his books and '''exposes''' the 'crib sheet' to the instructor's attention. Has the student who prepared the crib sheet cheated?

OVER OVER OVER OVER

There are typically 3 categories associated with the topic cheating -- INTENT (student who prepares a 'crib sheet), INTENT + COMMISSION (student who prepares a 'crib sheet' and actually uses it, and COMMISSION (student who just takes advantage of an opportunity to look over at a fellow student's paper).

_____11. On a scale of '1' through '5', with '1' being, "Not an example of cheating" and '5' being, "Serious example of cheating," what number would you assign to INTENT?

_____12. On a scale of '1' through '5', with '1' being, "Not an example of cheating" and '5' being, "Serious example of cheating," what number would you assign INTENT + COMMISSION?

_____13. On a scale of '1' through '5', with '1' being, "Not an example of cheating" and '5' being, "Serious example of cheating," what number would you assign COMMISSION?

Background Data

What category best describes you? (circle correct one)

Student
Faculty
Administration